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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/560,624

06/08/2006

Abhay Arun Bhagwat

J2073(C)

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201 7590 05/12/2009  
UNILEVER PATENT GROUP  
800 SYLVAN AVENUE  
AG West S. Wing  
ENGLEWOOD CLIFFS, NJ 07632-3100

EXAMINER

BAINBRIDGE, ANDREW PHILIP

ART UNIT

PAPER NUMBER

3754

MAIL DATE

DELIVERY MODE

05/12/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/560,624	<b>Applicant(s)</b> BHAGWAT, ABHAY ARUN	
	<b>Examiner</b> ANDREW P. BAINBRIDGE	<b>Art Unit</b> 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claims 1-3, 5 and 8-9 are rejected under 35 U.S.C. 103(a)** as being unpatentable over WO 03/006320 (Chan et al.) in view of US 3,788,520 (Dukess).

4. Chan in figures 1- 16 discloses a hand held multi-compartment dispenser 10, 20 with a deformable outer container body 12-13 (page 7, para. 4) with two mutually separated compartments 30, 40 for storing two different materials with different viscosities (page 6, para. 2) the two compartments divided by and sealed to a partition 50 with each compartment 30, 40 with an outlet opening (see figure 1) with a valve 14, 16 fitted into the opening (page 5, para. 5) with an aperture 60 through the valves 14, 16, the apertures 60 being sized to dispense a controlled ratio of material (page 6, para. 2, 3) where the divider 50 does not constitute a wall that is integrally molded with the

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valve 14,16 (page 6, para. 1) as it needs to be sealed to the valve 14, 16. Chan lacks explicitly teaching that the dividing wall is elastic, although it is implied by the way that the container is used to evenly dispense two products. Dukess in figures 1-5 explicitly claims a dividing wall 26 between two chambers 38, 40 that is resilient and can be a corrugated shape (see figure 2). It would be obvious to one of ordinary skill in the art to adapt Dukess to Chan because Dukess provides a way to ensure that the pressure on one chamber is the same pressure on the other chamber, which thereby allows a series of valves to be chosen that consistently dispense the correct ratio of product.

Any particular ratio of material claimed between the two chambers is an inherent result of the selection of valves and their ratio in area, the viscosity of the products, and the level of pressure applied to the container.

5. **Claims 6-7 are rejected under 35 U.S.C. 103(a)** as being unpatentable over Chan in view of Dukess as applied in claim 1 and further in view of US 5,954,234 (Connan et al.).

6. Chan in view of Dukess as applied in claim 1 has all of the elements of claims 6-7 except for a plurality of elastic partitions and the deformable outer container body is not collapsible. Connan in figures 1-4 explicitly teaches a squeezable container 10 that deforms but is not collapsible (col. 2, lines 50-68, col. 3, lines 1-5) and can have multiple elastic dividers 32, 34 (see figure 4) that are designed to separate the different materials and also be so pliable that the pressures are evenly distributed between the various chambers of material. It would be obvious to one of ordinary skill in the art to adapt Connan to the Chan-Dukess combination because Connan provides a way to use more

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than two ingredients at a time and teaches a way to ensure that the chambers are sized properly whether the container is near full or empty.

7. **Claim 10 is rejected under 35 U.S.C. 103(a)** as being unpatentable over Chan in view of Dukess as applied in claim 1 and further in view of US 5,921,440 (Maines).

8. Chan in view of Dukess as applied in claim 1 has all of the elements of claim 10 except for the two chambers that make the majority of the exterior of the container have flat sealing surfaces that are sealed onto the elastic divider to create two mutually separate compartments. Maines in figures 15-16 has two open chambers 22, 22a that have flat seals 23 that seal onto a divider 23 that creates two separate chambers. It would be obvious to one of ordinary skill in the art to adapt Maines to the Chan-Dukess combination because Maines shows a way to produce the container in an easy manufacturing system.

### ***Response to Arguments***

9. Applicant's arguments with respect to claims 1-3, 5-10 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW P. BAINBRIDGE whose telephone number is (571)270-3767. The examiner can normally be reached on Monday to Thursday, 9:30 AM to 8:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. P. B./  
Examiner, Art Unit 3754

/Kevin P. Shaver/  
Supervisory Patent Examiner, Art  
Unit 3754